

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Criminal No. 2:11-cr-20129

Plaintiff,

Honorable Robert H. Cleland

vs.

D-9, Michael William Mastromatteo,

Defendant.

PRELIMINARY ORDER OF FORFEITURE

The United States filed an Application for Entry of Preliminary Order of Forfeiture (“Application”) seeking a forfeiture order pursuant to 18 U.S.C. § 1963(a)(1)-(3), for (a) any and all interest Michael William Mastromatteo (“Defendant”) has acquired or maintained in violation of 18 U.S.C. § 1962; (b) any and all interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any Enterprise named and described in Count One of the Third Superseding Indictment which Defendant established, operated, controlled, conducted or participated in the conduct of, in violation of 18 U.S.C. § 1962; and (c) any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, from racketeering activity in violation of 18 U.S.C. § 1962, including the following:

(Note: “DD” referenced in the chart below means “Devils Diciples”.)

Item Number	Item Description
22	Norinco Sporter Assault Rifle, Model SKS, S/N 12219790, 7.62mm with magazines and miscellaneous ammunition
23	One bin containing miscellaneous boxes of ammunition
24	SWD-INC M11/9, 9mm, S/N: 89-0013761 w/ magazines
42	Smith & Wesson Model 57 .41 caliber revolver, S/N: N490895 and black cloth case
268	Nine framed DD mirrors
270	Black leather vest with DD patches on the back
271	One black leather vest with miscellaneous DD patches
272	One black leather vest with miscellaneous DD patches
273	One black leather vest with miscellaneous DD patches and pins
274	One black leather vest with miscellaneous DD patches and pins
275	One black leather vest with DD patches on the back

Item Number	Item Description
276	One black leather vest with miscellaneous DD patches and pins
277	Miscellaneous DD memorabilia: one magnet and three patches
287	Red DD flag with swastika symbol signed by club members
288	Miscellaneous DD clothing items: 10 t-shirts, one blue satin jacket and one black jacket
293	Two DD plaques
295	One DD plaque
299	One black leather vest with miscellaneous DD patches and pins
300	One black leather vest with DD patches on the back
301	One Lite Industries green protective vest
302	One black velvet DD grave blanket
306	Miscellaneous DD memorabilia: seven patches
317	One poster board with four pictures of DD members
324	One gold colored men's ring with "EK" engraved

Item Number	Item Description
325	One 9mm black magazine
326	One handgun magazine, black
327	Eleven 9mm rounds
328	Twelve 9mm rounds
329	Miscellaneous ammunition, one bag
330	One gold colored men's ring with "Devils Diciples" engraved, One gold colored men's ring in the form of "44"
353	Remington Shotgun, Model Wingmaster 870, S/N S665325V, 12-gauge with barrel for Winchester Model 1200, 12-gauge shotgun (1B54)
372	One wood fore-stock
373	One black leather DD vest with "property of Iron" patches on the back
374	One DD belt, one leather DD belt
375	One wallet with DD logo with chain attached, leather
376	One Foodsaver, compact vacuum sealer
377	One black leather vest with DD patches

Item Number	Item Description
378	One black leather vest with DD patches, one black leather vest with miscellaneous patches and pins
380	One framed DD award with photograph
387	One framed photograph, DD
388	Two DD logo patches
390	One DD trophy for annual poker run
399	One DD benefit CD
400	Miscellaneous DD memorabilia
401	Seven DD tee shirts and three DD sweatshirts
403	One Pelouze electronic scale
477	Smith & Wesson Model 342 .38 caliber revolver, S/N: CER5400
482	Walther Model PPK .32 caliber pistol, S/N: 326504K
514	Casino Poker Machine, Cal Omega (Manufacturer), S/N 800910
514	\$8.50 removed from Slot Machine in 1B

Item Number	Item Description
515	Draw Poker Machine, Casino Electronics (Manufacturer), Model 327-510, S/N M-2977
516	\$93.25 removed from Slot Machine in 1B 516
516	All American Slot Machine, Bally's (Manufacturer), Model S63U3WT-10, S/N S970518491
517	777 Slot Machine, Bally's (Manufacturer), Model S65L3CT60, S/N S970316561
517	\$31.00 removed from Slot Machine in 1B 517
520	FEG/KBI pistol, Model PJK-9HP, S/N G02677, 9mm caliber
529	Two shotgun rounds, one .410-gauge round, 40 rounds .45 caliber, magazine with seven rounds of .45 caliber
536	Roaring '20's Slot Machine, Bally's (Manufacturer), Model S62M3CT-10, S/N 5970519159
536	\$16.75 removed from Slot Machine in 1B 536
543	DD 2003 Calendar
545	1 Maxell CD-R, 700 mb, DD by-laws

Item Number	Item Description
546	One Devil's Disciples gold ring "20 years" and ring box
603	Five .380 caliber rounds
604	AMT Pistol, Model Backup, S/N D00709, .380 caliber
605	Winchester Defender Shotgun, S/N L2079329, 12-gauge
606	Seven 12-gauge Winchester shotgun shells
607	One box 12-gauge shotgun shells
609	2 Bar Slot Machine, Bally's (Manufacturer), Model S63L3WT-10, S/N S940202515
609	\$169.50 removed from Slot Machine in 1B 609
610	3 Bar Slot Machine- Wild Rose, Bally's (Manufacturer), Model S62B3VT-10, S/N S930805443
610	\$69.00 removed from Slot Machine in 1B 610
611	3 Bar Slot Machine - 7 Second Chance, Bally's (Manufacturer), Model S63U3WT10, S/N S950100082
611	\$234.00 removed from Slot Machine in 1B 611
612	3 Bar Slot Machine - Blazing 777, Bally's (Manufacturer), Model S63U3CT-70, S/N S970316959

Item Number	Item Description
612	\$74.75 removed from Slot Machine in 1B 612
613	3 Bar Slot Machine - Blazing 777, Bally's (Manufacturer), Model S63BCT-60, S/N S970316552
613	\$89.50 removed from Slot Machine in 1B 613
614	Crossman Air Rifle, Model 140, No S/N .22 caliber
615	"44" Photo Plaque with one photo
616	"Vern DDMC" picture plaque with one photo
617	Surveillance video monitor and two cameras
618	DD photo collage
620	One bag containing numerous .357 magnum rounds
625	DD Biker photo collage
804	Colt Revolver, Trooper Mark III, S/N 16805L, .357 caliber
805	Glock Pistol, Model 17, S/N DM075US, 9mm
806	Shotgun, make and model unknown, S/N 167347, 12-gauge with knife in leather case attached to firearm
807	Remington Rifle, Model 722, S/N 138392 with black gun sight, Universal Gamegetter, S/N RE-12

Item Number	Item Description
808	Mossberg Shotgun, Model 500A, S/N K429784, 12-gauge
809	CBC (Compania Braziliera de Cartuchos) Shotgun, Model 586, S/N 74823, 12-gauge
810	Winchester Rifle, Model 1917, S/N 442789, .30-06 caliber with black gun sight, Redfield Gun Sight Company, S/N A39146
811	Remington Arms Company Shotgun, Model Sportsman, S/N 512449, 12-gauge
812	Unknown shotgun, Model Unknown, No S/N, 12-gauge
813	Remington Arms Company Shotgun, Model 870 Express, S/N W886502M, 12-gauge
814	Mossberg Shotgun, Model 500A, S/N J501722, 12-gauge
817	Ruger Model Mark II .22 caliber pistol, S/N: 216-82096
818	AWC Systems Technology .22 caliber silencer, S/N: A-978
826	Glock Handgun, Model 19, S/N SZ500US, 9mm

Item Number	Item Description
953	One sealed bag containing three men's gold colored rings, one silver colored men's ring, one gold colored pendant (all DD related)
983	Bersa Handgun, Model Thunder 380, S/N 903222, .380 caliber with magazine (1B985) and seven rounds of ammunition (1B984)
1178	Smith & Wesson Model 4003 .40 caliber pistol, S/N: VZT3167
1182	Smith & Wesson Model 629 .44 caliber revolver, S/N: BSR4544
1248	Ithaca shotgun, Model 37-Featherlight, S/N 371322238, 12-gauge
1249	Black leather vest with "Devil's Disciples" insignia
1346	Winchester Model 300 20-gauge shotgun, S/N: Q77685
1347	Taurus Model 85 .38 special revolver, S/N: ND91244
n/a	1 Ashiba Digital Scale, Model 1625 with case
n/a	8 each, 9mm Luger Rounds

Item Number	Item Description
n/a	Norinco Pistol, Semi Auto, Model 213, 9mm, (made in China), S/N N1106873, and one magazine
n/a	Mossberg Shotgun, Model 500A, 12-gauge, S/N R360534
n/a	Sentry, Model 1170 safe, No. T196490
n/a	One black leather vest with miscellaneous DD patches
1183, 1184	Colt Model Mustang Plus II .380 caliber pistol, S/N: RS49049 with magazine
1185, 1186	Glock GMBH Model G39 .45 caliber pistol, S/N: HCM857 with magazine
1189, 1188	Smith & Wesson Model 296 .44 caliber revolver, S/N: CDH4327 with magazine
1191, 1190	Keltec, CNC Industries, Inc. Model P32 .32 caliber pistol, S/N: 16326 with magazine

(Hereinafter, the “Subject Property”).

Based upon the information contained in the Application, the contents of Defendant’s Rule 11 Plea Agreement, Defendant’s conviction for violating 18 U.S.C. § 1962(d) as set forth in Count One of the Third Superseding Indictment, Defendant’s agreement to forfeit the Subject Property, and other information in the

record, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. Pursuant to 18 U.S.C. § 1963(a)(1)-(3) and Fed.R.Crim.P. 32.2, Defendant shall forfeit to the United States (a) any and all interest Defendant has acquired or maintained in violation of 18 U.S.C. § 1962; (b) any and all interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any Enterprise named and described in Count One of the Third Superseding Indictment which Defendant established, operated, controlled, conducted or participated in the conduct of, in violation of 18 U.S.C. § 1962; and (c) any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, from racketeering activity in violation of 18 U.S.C. § 1962, including, but not limited to, the Subject Property.
2. The Subject Property **IS HEREBY FORFEITED** to the United States for disposition according to law, and any right, title or interest of Defendant, and any right, title or interest that his heirs, successors, or assigns, have or may have in the Subject Property **IS HEREBY AND FOREVER EXTINGUISHED.**
3. The Court has determined, based upon the contents of Defendant's Rule 11 Plea Agreement, and other information in the record, that there is a sufficient nexus between the Subject Property and the violation of Count One as set

forth in the Third Superseding Indictment in that the Subject Property constitutes an interest acquired or maintained in violation of 18 U.S.C. § 1962(d), and/or constitutes an interest in, security of, claim against, or property or contractual right affording a source of influence over the Enterprise named and described in Count One of the Third Superseding Indictment which Defendant established, operated, controlled, conducted or participated in the conduct of, in violation of 18 U.S.C. § 1962(d), and/or is property constituting, or derived from, proceeds obtained, directly or indirectly, from racketeering activity in violation of 18 U.S.C. § 1962(d).

4. This Order shall become final as to Defendant at the time it is entered and the forfeiture shall be made part of Defendant's sentence and included in Defendant's Judgment.
5. Upon entry of this Preliminary Order of Forfeiture, the United States Attorney General or his designee is authorized to commence any applicable proceeding to comply with the statutes governing third party rights, including giving notice of this Order.
6. Pursuant to 18 U.S.C. § 1963(l), the United States shall publish notice of this Preliminary Order of Forfeiture and of its intent to dispose of the Subject Property in such manner as the Attorney General may direct on www.forfeiture.gov for at least thirty (30) consecutive days. Said notice

shall direct that any person, other than the Defendant, asserting a legal interest in the Subject Property, may file a petition with the Court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier. The petition shall be for a hearing before the Court alone, without a jury and in accordance with 18 U.S.C. § 1963(l)(2), to adjudicate the validity of the petitioner's alleged interest in the Subject Property. Pursuant to 18 U.S.C. § 1963(l)(3), any petition filed by a third party asserting an interest in the Subject Property must be signed by the petitioner under penalty of perjury and must set forth the nature and extent of the petitioner's alleged right, title or interest in the Subject Property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the Subject Property, any additional facts supporting the petitioner's claim, and the relief sought. Pursuant to 18 U.S.C. § 1963(l)(1), the United States may also, to the extent practicable, provide direct written notice to any person or entity known to have an alleged interest in the Subject Property.

7. The United States is hereby authorized, pursuant to 18 U.S.C. § 1963(k) and Federal Rules of Criminal Procedure 32.2 (c), to conduct any discovery in the ancillary proceeding in accordance with the Federal Rules of Civil Procedure upon a showing that such discovery is proper and desirable.

8. Pursuant to 18 U.S.C. § 1963(l)(7), following the Court's disposition of any petitions for ancillary hearing, or, if none, following the expiration of the period provided in 18 U.S.C. § 1963(l)(2) for the filing of third party petitions, the United States shall have clear title to the Subject Property, all other interests in the Subject Property shall be FORFEITED to the United States, this Order shall become the Final Order of Forfeiture as provided by Federal Rule of Criminal Procedure 32.2(c)(2), and the United States shall be authorized to dispose of the Subject Property as prescribed by law.
9. Defendant shall not contest, or assist anyone else in contesting, the forfeiture of all of the firearms, silencers and ammunition, U.S. Currency, motorcycles, slot machines, tools, computers, thumb drives, laptops, cameras, monitors, electronic equipment, "Colors" including but not limited to center wheel, vests, pins and patches, clothing, merchandise, jewelry, paraphernalia, and other personal property bearing any Devil's Diciples' labeling, markings, logos or symbols, that were seized in connection with the investigation of this case, as well as those seized in connection with the investigation and prosecution of *United States v. Jeff Garvin Smith, et. al.*, Case No. 11-20066, United States District Court, Eastern District of Michigan, in any forfeiture action or proceeding.

10. Defendant shall not contest the forfeiture of, or file a petition or claim in connection with, any property that the government seeks to forfeit from any other defendant in this case, and from any defendant in *United States v. Jeff Garvin Smith, et. al.*, Case No. 11-20066, United States District Court, Eastern District of Michigan.
11. The Court retains jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).

IT IS SO ORDERED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 4, 2019

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, January 4, 2019, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(810) 292-6522